



ESA and FIFRA: Perspectives on Successes and Challenges

Reuben Baris*

WEED SCIENCE SOCIETY OF AMERICA, ANNUAL MEETING - JANUARY 2023

Balance

Endangered Species Protection and Agriculture



[This Photo by Unknown Author is licensed under CC BY-NC-ND](#)

Regulatory Landscape has shifted in the US

- US EPA responsibilities under ESA – challenged by continued litigation
- Policy and methods continue to evolve for evaluations
- New actives policy
- Litigation molecules – response to court deadlines
- Registration Review

EPA's Regulatory Steps: A Journey Painted by Enlist

2014/2017 – Path to registration through avoidance “No Effect”

- 34 states, County restrictions, 5 year registration

2022 – Path to registration through avoidance & minimization – shifting the standard, 7(d), predicted jeopardy/adverse modification (J/AM) – 7 year registration

2022 – New Policies for EPA compliance for ESA (New Actives)

2022 – EPA Workplan for Balancing Wildlife Protection and Responsible Pesticide Use

2022 – Isoclast Draft BE

2022 – Inpyrfluxam Draft BE

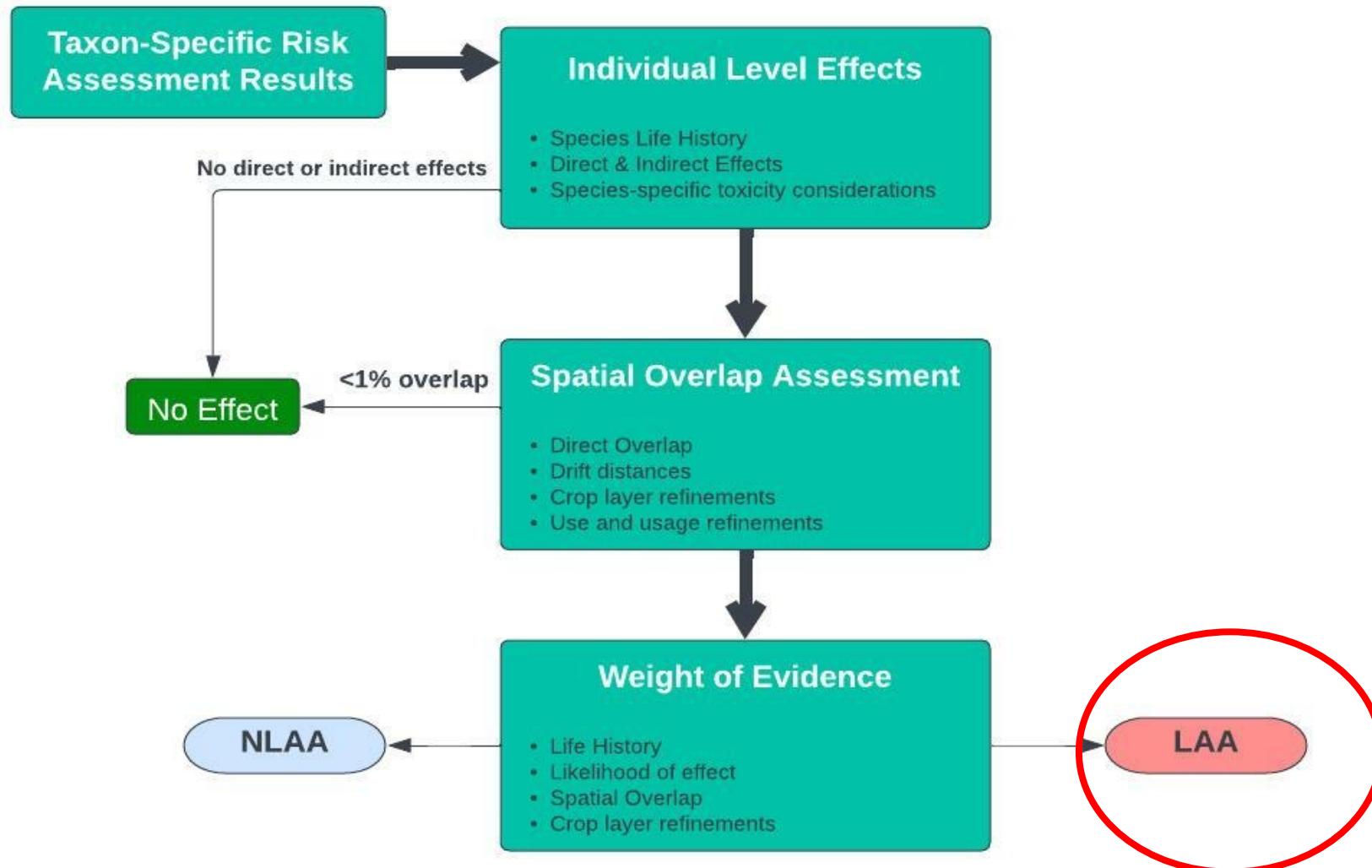
2022 – (November) Update to workplan - vulnerable species, early mitigations, focus on Reg. Review

2022 – (December) Court Opinions on significant cases

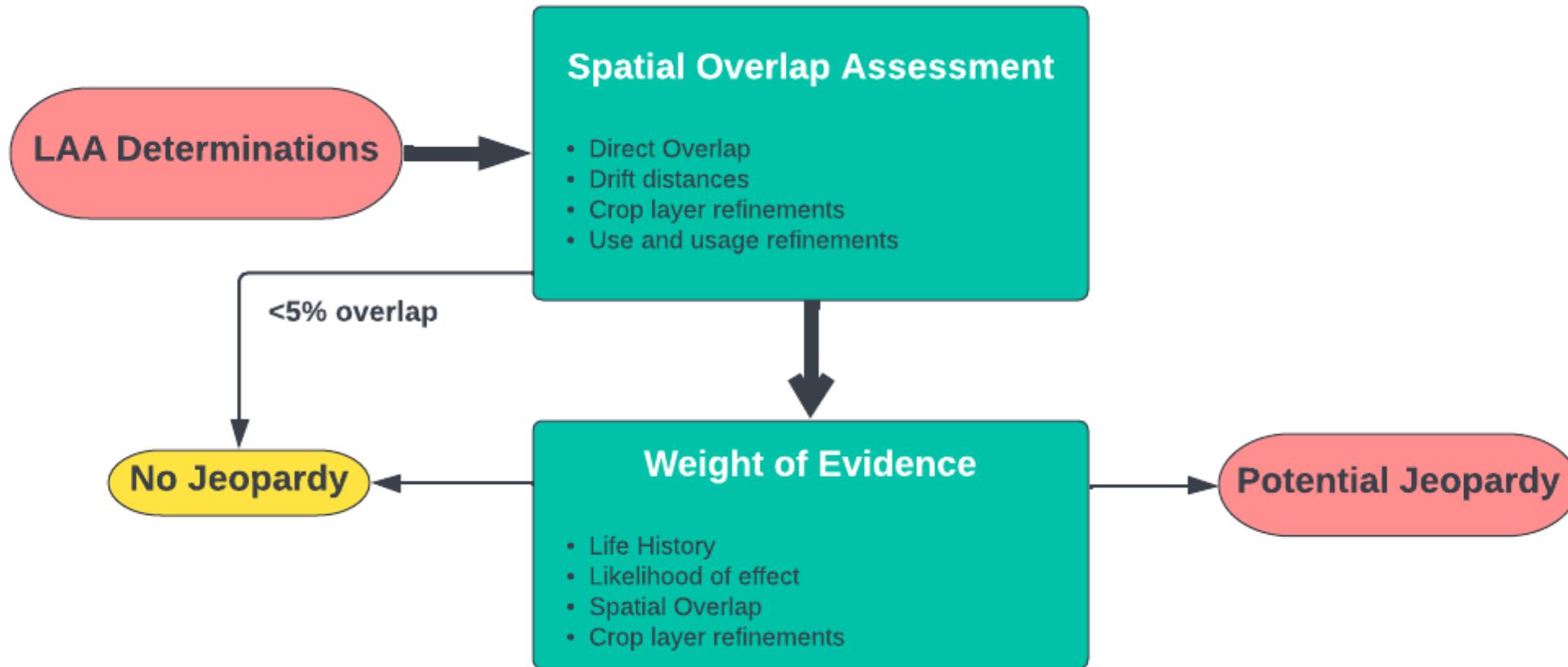


2023???

EPA's ESA Evaluation Process



EPA's ESA Evaluation Process – J/AM *Predictions*



Enlist as a Case study for Herbicides: Summary of Label Changes

While the new registrations largely align with the product registrations granted in 2017, key changes include:

- **7 year registration – expires January 11, 2029**
- **Application timing for cotton and soybeans – similar to glufosinate and dicamba timing**
- **A “pick list” of runoff mitigation measures for land managers – to allow farmers flexibility in how they manage lands**
- **Geographic restrictions for specific counties where certain on-field listed species may be present**
- **The addition of more than 100 new spray nozzles to the qualified nozzle list**

Use Restrictions – Should we expect these for other Products?

- Do not irrigate treated field within 48 hours of application
- Do not apply this product when soil is saturated or at field capacity, or when a storm event likely to produce runoff from the treated area is forecasted
- BLT statement - Endangered Species Advisory/Protection Requirements
- Pick lists targeting runoff, erosion, and measures to reduce spray drift
- Chemical-by-chemical, species-by-species is ineffective and inefficient
 - Long timelines; increased legal vulnerability; **uncertainty for growers and potential food security disruptions**
 - Groupings and targeted mitigations for vulnerable species (Herbicide Strategy)

Challenge...

Balance FIFRA and ESA

